

CCRB INVESTIGATIVE RECOMMENDATION

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|---|---|--|---|---|--|
| Investigator: Ben Gilmore | Team: Squad #11 | CCRB Case #: 201602039 | <input checked="" type="checkbox"/> Force | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input checked="" type="checkbox"/> Injury |
| Incident Date(s) Thursday, 03/10/2016 10:00 PM | Location of Incident: Sampson Avenue and Brinsmade Avenue; PSA 8 stationhouse | Precinct: 45 | 18 Mo. SOL 9/10/2017 | EO SOL 9/10/2017 | |
| Date/Time CV Reported Fri, 03/11/2016 2:44 AM | CV Reported At: CCRB | How CV Reported: Call Processing System | Date/Time Received at CCRB Fri, 03/11/2016 2:44 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |
| | | |

| Witness(es) | Home Address |
|-------------|--------------|
| | |
| | |

| Subject Officer(s) | Shield | TaxID | Command |
|---------------------------|--------|--------|---------|
| 1. An officer | | | PSA 8 |
| 2. Officers | | | PSA 8 |
| 3. POM Jimmie Moore | 25780 | 925771 | PSA 8 |
| 4. POM Alexander Callejas | 01142 | 950140 | PSA 8 |
| 5. SGT Jose Martinez | 05092 | 917941 | PSA 8 |
| 6. LT Carlos Felipe | 00000 | 928280 | PSA 8 |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|--------------------------|-----------|--------|----------|
| 1. SGT Wilbert Rodriguez | 04389 | 919641 | PSA 8 |
| 2. POM Wilson Rodriguez | 01802 | 951165 | PSA 8 |
| 3. POM Julio Alvarez | 07168 | 957330 | PSA 8 |
| 4. POM William Corchado | 13567 | 957487 | PSA 8 |
| 5. POM Derrick Kreckmann | 26021 | 954032 | PSA 8 |

| Officer(s) | Allegation | Investigator Recommendation |
|--------------------|--|-----------------------------|
| A.LT Carlos Felipe | Abuse: At Sampson Avenue and Brinsmade Avenue in the Bronx, Lieutenant Carlos Felipe stopped § 87(2)(b) | |
| B.POM Jimmie Moore | Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, Police Officer Jimmie Moore used physical force against § 87(2)(b) | |
| C. Officers | Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, officers used physical force against § 87(2)(b) | |
| D. An officer | Discourtesy: At Sampson Avenue and Brinsmade Avenue in the Bronx, an officer acted discourteously toward § 87(2)(b) | |
| E. An officer | Discourtesy: At Sampson Avenue and Brinsmade Avenue in the Bronx, an officer spoke discourteously to § 87(2)(b) | |

| Officer(s) | Allegation | Investigator Recommendation |
|--------------------------|--|-----------------------------|
| F. An officer | Abuse: At Sampson Avenue and Brinsmade Avenue in the Bronx, an officer refused to provide her name to § 87(2)(b) | |
| G. Officers | Abuse: At Sampson Avenue and Brinsmade Avenue in the Bronx, officers damaged § 87(2)(b)'s property. | |
| H.POM Alexander Callejas | Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, Police Officer Alexander Callejas used physical force against § 87(2)(b) | |
| I.POM Alexander Callejas | Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, Police Officer Alexander Callejas used a chokehold against § 87(2)(b) | |
| J.POM Alexander Callejas | Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, Police Officer Alexander Callejas restricted the breathing of § 87(2)(b) | |
| K.POM Jimmie Moore | Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, Police Officer Jimmie Moore used pepper spray against § 87(2)(b) | |
| L.POM Jimmie Moore | Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, Police Officer Jimmie Moore used physical force against § 87(2)(b) | |
| M. Officers | Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, officers used physical force against § 87(2)(b) | |
| N. An officer | Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, an officer struck § 87(2)(b) with a blunt instrument. | |
| O.POM Jimmie Moore | Discourtesy: At the PSA 8 stationhouse, Police Officer Jimmie Moore spoke discourteously to § 87(2)(b) | |
| P.SGT Jose Martinez | Discourtesy: At the PSA 8 stationhouse, Sergeant Jose Martinez spoke discourteously to § 87(2)(b) | |
| Q.SGT Jose Martinez | Abuse: At the PSA 8 stationhouse, Sergeant Jose Martinez threatened to arrest § 87(2)(b) | |
| R.SGT Jose Martinez | Discourtesy: At the PSA 8 stationhouse, Sergeant Jose Martinez spoke discourteously to § 87(2)(b) | |

Case Summary

On March 11, 2016, § 87(2)(b) called the Civilian Complaint Review Board (CCRB) and filed this complaint via the CCRB Call Processing System on behalf of herself and her boyfriend, § 87(2)(b). There is no video footage of this incident.

On March 10, 2016, at approximately 9:05 p.m., an anonymous 911 caller reported that gun shots were fired in the rear of 2805 Dewey Avenue in the Bronx (Board Review 01). Several more 911 calls were made regarding shots fired, and within a few minutes of the initial 911 call, a Housing Sergeant confirmed over police radio that a female had been shot on Dewey Avenue (Board Reviews 02 and 03).

A description of the perpetrator of the shooting was repeatedly broadcasted over the police radio: Hispanic male, light-skinned, 5'5" tall, 140 pounds, pimples on his face, wearing a black shirt and black hat (Board Reviews 02 and 03).

§ 87(2)(b) a Hispanic male, light-skinned, 5'8" tall, 165 pounds, with a clear complexion and wearing an all-gray sweat suit and no hat, was riding his bicycle in the vicinity of the confirmed shooting shortly after the shots were fired. § 87(2)(b) testified (Board Review 04) that he was checking on the well-being of his girlfriend, § 87(2)(b) and was on his way to a friend's residence on Brinsmade Avenue.

Approximately 20 minutes after the initial report of shots fired, Lieutenant Carlos Felipe of PSA 8 put over the radio an instruction to stop a male Hispanic on a bicycle who was wearing an all-gray hoodie (Board Reviews 02 and 03) (**Allegation A**). Upon hearing this over the radio, PO Jimmie Moore of PSA 8 approached § 87(2)(b) and tackled him off his bicycle (**Allegation B**). § 87(2)(b) alleged that approximately 10 police officers then "beat [him] up" by stomping on his groin, stomping on his back, and twisting his right ankle (**Allegation C**). § 87(2)(b) was secured in handcuffs, at which point a knuckle knife (Board Review 05) was recovered from his person.

§ 87(2)(b) testified (Board Review 06) that she arrived on scene and asked what was going on, saying that § 87(2)(b) had not done anything wrong. § 87(2)(b) and § 87(2)(b) alleged that an unidentified officer put the knuckle knife within inches of § 87(2)(b)'s face (**Allegation D**). § 87(2)(b) alleged that this same officer asked her, "What the fuck is this?" (**Allegation E**). § 87(2)(b) testified that she replied to the officer that she was pregnant, to which the officer allegedly responded, "I don't give a fuck, get the fuck out of here" (included in **Allegation E**).

§ 87(2)(b) testified that an unidentified female officer approached her and explained that the situation would be sorted out at the PSA 8 stationhouse. § 87(2)(b) alleged that she requested the name of the unidentified female officer, and she refused to provide it to her (**Allegation F**). § 87(2)(b) alleged that while he was being arrested, unidentified officers stomped on his bicycle, causing damage to it (**Allegation G**).

Once secured in handcuffs, § 87(2)(b) was led towards a police vehicle. § 87(2)(b) alleged that PO Alexander Callejas of PSA 8 pulled § 87(2)(b)'s arms high above his back

to the point where § 87(2)(b) thought his arms were going to break (**Allegation H**). § 87(2)(b) alleged that PO Callejas pulled on the back of his sweatshirt, causing the fabric to become taught against the front of his neck (**Allegation I**). § 87(2)(b) alleged that PO Callejas maintained this hold for a couple of minutes and that his breathing was restricted during this time (**Allegation J**).

While § 87(2)(b) was handcuffed and was being escorted toward a police vehicle, PO Moore used pepper spray against him (**Allegation K**). § 87(2)(b) testified that after the pepper spray was used against him, he began thrashing his upper body from side to side. § 87(2)(b) alleged that PO Moore slapped him in the face (**Allegation L**), and that unidentified officers punched him in the ribs (**Allegation M**). § 87(2)(b) alleged that an unidentified officer struck him with a hard object on his left temple, causing him to lose consciousness (**Allegation N**).

§ 87(2)(b) testified that he regained consciousness in the bathroom of the PSA 8 stationhouse, and that he was subsequently placed in a holding cell. § 87(2)(b) alleged that after telling PO Moore that he was going to file a lawsuit regarding the incident, PO Moore responded, “I don’t give a fuck” (**Allegation O**). § 87(2)(b) alleged that Sergeant Jose Martinez of PSA 8 told him to “shut the fuck up” (**Allegation P**).

§ 87(2)(b) testified that she arrived at the PSA 8 stationhouse to check on § 87(2)(b). § 87(2)(b) alleged that Sgt. Martinez told her that if she did not leave, she would be arrested (**Allegation Q**). § 87(2)(b) alleged that Sgt. Martinez told her, “Listen, I’m not fucking around anymore” (**Allegation R**), and repeated his threat to arrest her if she did not leave the stationhouse (included in **Allegation Q**).

§ 87(2)(b) was arrested as a result of the incident, and his sole charge was for § 87(2)(b) (Board Review 08). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(g)

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation given § 87(2)(b)'s arrest (Board Reviews 08 and 09).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

- A Notice of Claim inquiry was submitted to the New York City Comptroller's Office on July 19, 2016 (Board Review 27). The results will be added to the case file upon receipt.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (Board Review 11).
- This is the first CCRB complaint in which § 87(2)(b) is a participant (Board Review 12).
- Lieutenant Felipe has been a member-of-service for 15 years. He has been the subject of two prior CCRB allegations, neither of which was substantiated.
- PO Moore has been a member-of-service for 16 years. He has been the subject of 19 previous CCRB allegations, one of which was substantiated.
 - In CCRB 201407548, an allegation that PO Moore interfered with a civilian's ability to record an incident was substantiated. The CCRB recommended formalized training, and PO Moore received formalized training.
- PO Callejas has been a member-of-service for five years. He has been the subject of two prior CCRB allegations, neither of which was substantiated.
- Sgt. Martinez has been a member-of-service for 20 years. He has been the subject of 16 previous CCRB allegations, one of which was substantiated.
 - In CCRB 201107870, an allegation that Sgt. Martinez stopped an individual was substantiated. The CCRB recommended charges, but the NYPD took no disciplinary action against Sgt. Martinez.

Findings and Recommendations

Explanation of Subject Officer Identification

- It is undisputed that § 87(2)(b) was stopped for the sole reason that his description was put over the radio as a suspect in a confirmed shooting. A review of the Police Radio Communications recording (Board Reviews 02 and 03) revealed that the first and only time a description matching § 87(2)(b) was put over the radio was approximately 20 minutes after the first call regarding the shooting. During his CCRB interview, PO Julio Alvarez (Board Review 13) of PSA 8 indicated that the voice that put over the description sounded like the Housing Lieutenant. The Housing Lieutenant, Lt. Felipe, testified (Board Review 14) that he put over a description matching that of § 87(2)(b) and he acknowledged that his voice "sounded like" the voice on the Police Radio Communications recording. § 87(2)(g)
- § 87(2)(b) alleged that while he was being handcuffed, approximately 10 police officers repeatedly kicked him, and although he was not sure which officers in particular were kicking him, he identified them as plainclothes officers from PSA 8. Nine officers from PSA 8 were interviewed, and each denied participating in or witnessing this alleged physical force. § 87(2)(g)
- Both § 87(2)(b) and § 87(2)(b) alleged that an officer placed a knuckle knife that was recovered from § 87(2)(b)'s person within inches of § 87(2)(b)'s face. § 87(2)(b) alleged that the same officer who did this also spoke discourteously to her. Both § 87(2)(b) and § 87(2)(b) were presented photo arrays (Board Reviews 15 and 16), and each identified a different officer as the subject officer of this allegation. § 87(2)(b) identified PO Edward Madden who was assigned to the 101st Precinct in

Queens during this incident. Of the 10 police officers interviewed, none acknowledged putting a knife near § 87(2)(b)'s face or seeing any officer do so. § 87(2)(g)

- § 87(2)(b) alleged that a female officer refused to provide her name when she requested it. § 87(2)(b) was presented a photo array, and she § 87(2)(g) identified the subject of this allegation as a civilian member of service. Of the 10 officers interviewed, none indicated that they observed a female officer on scene, and each denied observing an officer fail to provide their name to § 87(2)(b) § 87(2)(g)
- § 87(2)(b) alleged that plainclothes officers from PSA 8 who he could not identify stomped on his bicycle, causing damage to it. None of the officers interviewed acknowledged stomping on § 87(2)(b)'s bicycle or seeing any officer do so. § 87(2)(g)
- § 87(2)(b) testified that after pepper spray was used against him, he could not see well and he began thrashing his upper body from side to side. § 87(2)(b) alleged that officers he could not see punched him in the ribs and that an officer he could not see hit him in the head with an unknown hard object. None of the officers interviewed acknowledged punching § 87(2)(b) or hitting him with an object, and none of them acknowledged seeing any officer do either of these things. § 87(2)(g)

Allegation A – Abuse of Authority: At Sampson Avenue and Brinsmade Avenue in the Bronx, Lieutenant Carlos Felipe stopped § 87(2)(b)

On March 10, 2016, at approximately 9:05 p.m., several calls were made to 911 reporting that gun shots were fired in the vicinity of 2805 Dewey Avenue in the Bronx (Board Review 01). Within a few minutes of the initial 911 call, a Housing Sergeant confirmed over police radio that a female had been shot.

A description of the suspected shooter that did not match § 87(2)(b) was repeatedly broadcasted over the police radio (Board Reviews 02 and 03): a Hispanic male, light-skinned, 5'5" tall, 140 pounds, pimples on his face, wearing a black shirt and black hat.

Approximately 20 minutes after the initial 911 call was made, Lt. Felipe put over the radio a description matching § 87(2)(b) a male Hispanic on a bicycle who was wearing an all-gray hoodie.

Lt. Felipe testified that he heard the description of § 87(2)(b) broadcasted over the radio, and that he merely repeated it. Lt. Felipe testified that there was no other reason he broadcasted this description over the radio. However, a review of the Police Radio Communications recording indicated that this description was only broadcasted once, by the voice that Lt. Felipe identified as sounding like his own. § 87(2)(b)'s description is not listed in the Event documentation (Board Review 01), none of the 911 callers provided a description matching § 87(2)(b) (Board Review 17), and by the time the description matching § 87(2)(b) was broadcast over the radio, a housing sergeant had reported over the police radio that § 87(2)(b), § 87(2)(e), § 87(2)(f) and provided the first description of the suspect noted above.

Almost immediately after § 87(2)(b)'s description was put over the radio, PO Moore stopped § 87(2)(b). It is undisputed that § 87(2)(b) was stopped solely because his description was put over the radio as the suspect in a confirmed shooting.

To stop an individual an officer must harbor reasonable suspicion that the individual had engaged, was engaging, or was about to engage in criminality. People v. DeBour, 40 N.Y. 2d 210 (1976)(Board Review 18).

§ 87(2)(g)

Allegation B – Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, Police Officer Jimmie Moore used physical force against § 87(2)(b)

It is undisputed that almost immediately after § 87(2)(b)'s description was broadcast over the radio, PO Moore stopped him. § 87(2)(b) alleged that PO Moore tackled him off his bicycle, and PO Moore acknowledged doing this.

A police officer must use the minimum necessary force NYPD Patrol Guide Procedure 203-11 (Board Review 19).

§ 87(2)(g)

Allegation C – Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, officers used physical force against § 87(2)(b)

§ 87(2)(b) alleged that while he was being handcuffed, approximately 10 police officers repeatedly kicked him, and although he was not sure which officers in particular were kicking him, he indicated that it was all plainclothes officers from PSA 8. Nine officers from PSA 8 were interviewed, eight of whom acknowledged being on the scene of § 87(2)(b)'s arrest, yet each denied kicking § 87(2)(b) or seeing any officer kick § 87(2)(b).

§ 87(2)(b)'s medical records (Board Review 27) indicate that no obvious injuries were observable, although his right wrist was swollen, there was a contusion to his right hand, and there were abrasions to his right knee.

§ 87(2)(g)

Allegation D – Discourtesy: At Sampson Avenue and Brinsmade Avenue in the Bronx, an officer acted discourteously toward § 87(2)(b)

Allegation E – Discourtesy: At Sampson Avenue and Brinsmade Avenue in the Bronx, an officer spoke discourteously to § 87(2)(b)

Both § 87(2)(b) and § 87(2)(b) alleged that an officer placed a knuckle knife that was recovered from § 87(2)(b)'s person during his arrest within inches of § 87(2)(b)'s face.

§ 87(2)(b) alleged that the same officer, as he put the knife near her face, asked, “What the fuck is this?” § 87(2)(b) testified that she responded that she was pregnant, and the same

officer replied that he “did not give a fuck,” and to “get the fuck out of here.” § 87(2)(b) did not make an allegation that this officer spoke discourteously to § 87(2)(b).

Both § 87(2)(b) and § 87(2)(b) were presented photo arrays, and each identified a different officer as the officer who placed the knuckle knife within inches of § 87(2)(b)'s face. § 87(2)(b) § 87(2)(g) identified a filler officer, PO Madden, who was assigned to a precinct in a different borough during the time of the incident. § 87(2)(b) identified Sgt. Wilbert Rodriguez of PSA 8, who denied placing the knife near § 87(2)(b)'s face or seeing any officer do so. Sgt. Rodriguez denied speaking discourteously to § 87(2)(b) or hearing any officer do so.

None of the 10 police officers interviewed acknowledged putting a knife near § 87(2)(b)'s face or seeing any officer do so. No officer indicated that they spoke discourteously to § 87(2)(b) or heard any officer do so.

§ 87(2)(g)

Allegation F – Abuse of Authority: At Sampson Avenue and Brinsmade Avenue in the Bronx, an officer refused to provide her name to § 87(2)(b)

§ 87(2)(b) alleged that she asked a female officer on the scene of § 87(2)(b)'s arrest for her name, and that the female officer refused to provide her name. § 87(2)(b) did not indicate that an officer refused to provide their name to § 87(2)(b).

§ 87(2)(b) was presented a photo array and § 87(2)(g) identified as the officer who refused to provide her name, a filler civilian member of service (tax # § 87(2)(b)). None of the 10 officers interviewed acknowledged observing a female officer fail to provide her name to § 87(2)(b).

§ 87(2)(g)

Allegation G – Abuse of Authority: At Sampson Avenue and Brinsmade Avenue in the Bronx, officers damaged § 87(2)(b)'s property.

§ 87(2)(b) alleged that plainclothes officers from PSA 8 stomped on his bicycle, causing damage to it, but he could not indicate specific officers who did this. § 87(2)(b) did not allege that § 87(2)(b)'s bicycle was damaged.

None of the 10 officers interviewed acknowledged stomping on § 87(2)(b)'s bicycle or seeing any officer do so.

§ 87(2)(g)

Allegation H – Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, Police Officer Alexander Callejas used physical force against § 87(2)(b)

§ 87(2)(b) alleged that after he was handcuffed and was being escorted to a police vehicle, PO Callejas lifted his arms high above his back to the point where § 87(2)(b) thought his arms might break. § 87(2)(b) did not indicate that she witnessed this allegation.

PO Callejas (Board Review 20) denied ever raising § 87(2)(b)'s arms above his back. PO Moore acknowledged that he and PO Callejas put their hands through § 87(2)(b)'s handcuffed arms and pushed on his shoulder in order to better control him, but he denied that PO

Callejas or any officer forced § 87(2)(b) s arms above his back. None of the officers interviewed indicated that PO Callejas forced § 87(2)(b) s arms above his back.

§ 87(2)(b) s medical records do not document any injuries to either of his arms.

§ 87(2)(g)

Allegation I – Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, Police Officer Alexander Callejas used a chokehold against § 87(2)(b)

Allegation J – Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, Police Officer Alexander Callejas restricted the breathing of § 87(2)(b)

§ 87(2)(b) alleged that after he was handcuffed and was being escorted to a police vehicle, PO Callejas pulled on the hood of his hooded sweatshirt, causing the fabric to become taught around his neck and restricting his breathing for approximately two minutes. § 87(2)(b) did not indicate that any officer pulled on § 87(2)(b) s clothing, or otherwise restricted § 87(2)(b) s breathing.

PO Callejas denied ever pulling on § 87(2)(b) s clothing and denied ever causing § 87(2)(b) s breathing to become restricted. No officer interviewed corroborated these allegations.

§ 87(2)(b) s medical records do not indicate any injury or markings to § 87(2)(b) s neck, nor does his arrest photograph (Board Review 24) depict any injury or marking to his neck. The command log (Board Review 21) solely notes § 87(2)(b) s physical condition as “pepper spray” (see Allegation K).

§ 87(2)(g)

Allegation K – Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, Police Officer Jimmie Moore used pepper spray against § 87(2)(b)

Allegation L – Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, Police Officer Jimmie Moore used physical force against § 87(2)(b)

§ 87(2)(b) alleged, and PO Moore acknowledged, that while § 87(2)(b) was rear-cuffed and being escorted to a police vehicle, PO Moore used pepper spray against him. It is undisputed that at least two officers were physically escorting § 87(2)(b) toward the police vehicle at this time. § 87(2)(g)

§ 87(2)(b) it is undisputed that § 87(2)(b) did not strike or attempt to strike any officer, nor did he kick or spit at anyone.

§ 87(2)(b) alleged that he was standing still with his stomach on the trunk of a police vehicle when PO Moore used pepper spray against him. § 87(2)(b) alleged that PO Moore applied the pepper spray to his face by spraying the pepper spray into his hand and then slapping § 87(2)(b) in the face and rubbing the pepper spray on his face.

PO Moore testified that as he and PO Callejas escorted § 87(2)(b) to a police vehicle, § 87(2)(b) was solely “squirming” his shoulders, yelling, kicking (but not at anyone or anything), fell to the ground on his own accord, and refused orders to “just walk.” PO Moore stated that he and PO Callejas were able to escort § 87(2)(b) to one police vehicle, but it did

Allegation M – Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, officers used physical force against § 87(2)(b)

Allegation N – Force: At Sampson Avenue and Brinsmade Avenue in the Bronx, an officer struck § 87(2)(b) with a blunt instrument.

§ 87(2)(b) testified that after pepper spray was used against him, he could not see well and he began thrashing his upper body from side to side. § 87(2)(b) alleged that officers he could not see punched him in the ribs and that an officer hit him in the head with an unknown hard object.

None of the 10 officers interviewed acknowledged punching § 87(2)(b) or seeing any officer do so. None of 10 officers interviewed acknowledged hitting § 87(2)(b) with an object or seeing any officer do so.

§ 87(2)(b)'s medical records do not document any injury to § 87(2)(b)'s ribs or face. However, the description associated with § 87(2)(b)'s arrest photograph notes red bruising near § 87(2)(b)'s left temple (Board Review 24). This injury is not visible in the photograph.

§ 87(2)(g)
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§ 87(2)(g)

Allegation O – Discourtesy: At the PSA 8 stationhouse, Police Officer Jimmie Moore spoke discourteously to § 87(2)(b)

It is undisputed that while inside of a holding cell at the PSA 8 stationhouse, § 87(2)(b) told PO Moore that he was going to sue him regarding the incident. § 87(2)(b) alleged that PO Moore replied that he “did not give a fuck,” and PO Moore testified that he did “probably” say this. When asked why PO Moore “probably” said this, PO Moore stated that § 87(2)(b) “had his right to do things.”

In dealing with the public, an officer must be courteous and respectful, NYPD Patrol Guide 203-09 (Board Review 25).

§ 87(2)(g)
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Allegation P – Discourtesy: At the PSA 8 stationhouse, Sergeant Jose Martinez spoke discourteously to § 87(2)(b)

Allegation Q – Abuse of Authority: At the PSA 8 stationhouse, Sergeant Jose Martinez threatened to arrest § 87(2)(b)

Allegation R – Discourtesy: At the PSA 8 stationhouse, Sergeant Jose Martinez spoke discourteously to § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) testified that § 87(2)(b) arrived at the PSA 8 stationhouse while § 87(2)(b) was inside a holding cell. § 87(2)(b) alleged that while he was

attempting to speak with § 87(2)(b) Sgt. Martinez told him to “shut the fuck up.” § 87(2)(b) did not indicate that she heard Sgt. Martinez say this to § 87(2)(b)

§ 87(2)(b) alleged that while at the PSA 8 stationhouse, Sgt. Martinez told her that if she did not leave, she would be arrested. § 87(2)(b) alleged that after remaining inside the stationhouse, Sgt. Martinez then told her, “Listen, I’m not fucking around no more. If you don’t get out, I’m going to arrest you now.” § 87(2)(b) testified that Sgt. Martinez escorted § 87(2)(b) out of the stationhouse, but he did not allege that Sgt. Martinez spoke discourteously to her or threatened to arrest her.

Sgt. Martinez testified (Board Review 26) that he did not remember this incident, but that he did not use profanity at any point during his tour on the date of the incident, including the alleged statements, and he denied threatening to arrest § 87(2)(b)

PO Moore testified that a female civilian did appear at the PSA 8 stationhouse and spoke with § 87(2)(b) but he stated that he did not hear Sgt. Martinez use profanity towards her or threaten to arrest her. PO Moore denied hearing Sgt. Martinez tell § 87(2)(b) to “shut the fuck up.” No officer interviewed indicated that Sgt. Martinez spoke discourteously to § 87(2)(b) or § 87(2)(b) or that he threatened to arrest § 87(2)(b)

§ 87(2)(g)
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§ 87(2)(g)

Squad:

| | | | |
|---------------|-----------------|-------|-------|
| Investigator: | _____ | _____ | _____ |
| | Signature | Print | Date |
| Squad Leader: | _____ | _____ | _____ |
| | Title/Signature | Print | Date |
| Reviewer: | _____ | _____ | _____ |
| | Title/Signature | Print | Date |